

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARITZA AMADOR , INDIVIDUALLY	§
AND AS REPRESENTATIVE OF THE ESTATE	§
OF GILBERT FLORES AND AS NEXT	§
FRIEND OF MINOR R.M.F. , VANESSA	§
FLORES, MARISELA FLORES,	§
CARMEN FLORES AND	§
ROGELIO FLORES,	§
	§
PLAINTIFFS,	§
	§
V.	§ CIVIL ACTION NO. 5:15-CV-00810-RP
	§
BEXAR COUNTY, BEXAR COUNTY	§
SHERIFF'S OFFICE, GREG VASQUEZ ,	§
INDIVIDUALLY AND IN HIS OFFICIAL	§
CAPACITY AND ROBERT SANCHEZ ,	§
INDIVIDUALLY AND IN HIS OFFICIAL	§
CAPACITY,	§
	§
DEFENDANTS.	§
	§

DEFENDANTS DEPUTY GREG VASQUEZ AND DEPUTY ROBERT SANCHEZ'
NOTICE OF INTERLOCUTORY APPEAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE ROBERT PITMAN:

NOW COME **DEPUTY GREG VASQUEZ** and **DEPUTY ROBERT SANCHEZ**, Individually, Defendants in the above entitled and numbered cause, and files this their Notice of Interlocutory Appeal pursuant to 28 U.S.C. §1291, notifying the trial court and other parties of this appeal of the trial court's denial of Defendant **DEPUTY GREG VASQUEZ** and **DEPUTY ROBERT SANCHEZ**' Motion for Summary Judgment (Dkt. 160) based upon their plea of qualified immunity from liability and suit and in support thereof would show unto the Court the following:

I.

Plaintiffs' claims made the basis of this appeal is brought pursuant to 42 U.S.C. §1983 alleging that Plaintiffs' Decedent was subjected to excessive force in violation of the Fourth Amendment to the United States Constitution concerning the officer involved shooting of August 28, 2015, the incident made the basis of this compliant. Specifically, qualified immunity was denied to **DEPUTY GREG VASQUEZ** and **DEPUTY ROBERT SANCHEZ** who had affirmatively asserted their defense of "good faith" qualified immunity in their Original Answer (Dkt. 15) which is the live pleading in this case.

II.

Defendant **DEPUTY GREG VASQUEZ** and **DEPUTY ROBERT SANCHEZ**, in their individual capacities, filed their Motion for Summary Judgment (Dkt. 110) on June 30, 2017 and their Reply in Support of their Motion for Summary Judgment (Dkt. 134) on July 18, 2017. *Harlowe v. Fitzgerald*, 457 U.S. 800, 818 (1982); *Mally v. Briggs*, 475 U.S. 335, 345 (1986). Defendant **DEPUTY GREG VASQUEZ** and **DEPUTY ROBERT SANCHEZ** moved for summary judgment on the basis that Plaintiffs' decedent's constitutional rights were not violated and on the basis, that their actions were objectively reasonable, as a matter of law. *Pearson v. Callahan*, 555 U.S. 223, 234 (2009). On October 12, 2017, United States Senior District Judge Robert Pitman issued his order denying Defendant **DEPUTIES VASQUEZ** and **SANCHEZ**'s Motion for Summary Judgment based on qualified immunity. (Dkt. 160).

III.

This Court's denial of Defendant **DEPUTIES VASQUEZ** and **SANCHEZ**' Motion for Summary Judgment based on qualified immunity is immediately appealable under the Collateral Order Doctrine to the extent that it concerns an issue of law. *Ashcroft v. Iqabal*, 556 U.S. 662, 672 (2009); *Behens v. Pelletier*, 516 U.S. 299, 307 (1996). Defendant **DEPUTIES VASQUEZ** and **SANCHEZ**' having raised their defense of qualified immunity are entitled to an interlocutory appeal of this Court's denial of their Motion for Summary Judgment. *Mullinex v. Luna*, 577 U.S. ____ 136 S.Ct. 305, 308 (2015); *Plumhoff v. Rickard*, ____ U.S. ____ , 134 S.Ct. 2012, 2021, 188

L.Ed2d 1056 (2014); *Mitchell v. Forsythe*, 472 U.S. 511, 530 (1985). A copy of the Court's September 1, 2017 Order (Dkt. 160) is hereby marked as Exhibit "A" and attached hereto for all purposes.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED Defendant **DEPUTY GREG VASQUEZ** and **DEPUTY ROBERT SANCHEZ** file their Interlocutory Appeal for purposes of obtaining appellate review of the trial court's denial of his Motion for Summary Judgment (Dkt. 160) based on his affirmative defense of qualified immunity from suit and liability to the constitutional claim alleged against them in their individual capacity.

Respectfully submitted,

LAW OFFICES OF CHARLES S. FRIGERIO
A Professional Corporation
Riverview Towers
111 Soledad, Suite 840
San Antonio, Texas 78205
(210) 271-7877
(210) 271-0602 Telefax
Email: frigeriolaw1995@sbcglobal.net

BY: /s/ Charles S. Frigerio
CHARLES S. FRIGERIO
SBN: 07477500
SD. Fed I.D. 19387
LEAD COUNSEL IN CHARGE

HECTOR X. SAENZ
SBN: 17514850
SD. Fed I.D. 19388
ATTORNEYS FOR DEFENDANTS
DEPUTY GREG VASQUEZ and
DEPUTY ROBERT SANCHEZ

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November 2017, I electronically sent the foregoing Defendant Deputy Greg Vasquez and Deputy Robert Sanchez' **NOTICE OF INTERLOCUTORY APPEAL** with the Clerk of the Court using the CM/ECF system. Notification will be forwarded via ECF to:

Mr. Thomas J. Henry
Mr. Robert P. Wilson
LAW OFFICES OF THOMAS J. HENRY
4715 Fredericksburg Road, Suite 507
San Antonio, Texas 78229
Attorneys for Plaintiffs

/s/ Charles S. Frigerio
CHARLES S. FRIGERIO